

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

KIMBERLY SMITH	)	CASE NO.: 5:08 CV 281
	)	
Plaintiff,	)	MAGISTRATE JUDGE JAMES GALLAS
	)	
vs.	)	<u>MOTION FOR DISMISSAL</u>
	)	<u>WITHOUT PREJUDICE</u>
	)	
SUMMA HEALTH SYSTEM	)	
	)	
Defendant.	)	

Pursuant to Civ. R. 41(a)(2), Plaintiff, by and through undersigned counsel, hereby moves this Court for an order dismissing Plaintiff's action, without prejudice, on the basis that Plaintiff's current physical or mental condition does not enable her to pursue her claim filed herein.

Undersigned counsel represents that on the day of the CMC scheduled herein, he was informed that Plaintiff was admitted to Akron General on March 9, 2008 experiencing stroke like symptoms. According to her husband, she is presently at the Cleveland Clinic Foundation, having been diagnosed with a form of multiple sclerosis that has impaired her ability to speak, and has also resulted in partial paralysis. As a result thereof, she had been unable to communicate intelligibly and the degree to which her long-term memory has been compromised cannot be known, at least at this juncture. According to her husband, Plaintiff's short-term memory was noticeably declining prior to her admission at Akron General.

Rather than relying on time to determine the extent to which Plaintiff may be able to resume her cognitive functions, undersigned counsel believes that it is best, in Plaintiff's interest and in the interest of judicial economy, to voluntarily dismiss her action. Thereafter, should her condition permit, the resumption of her suit could thus follow.

Accordingly, and for the foregoing reason, undersigned counsel respectfully request the voluntary dismissal of her action, without prejudice.

Respectfully Submitted,

/s/s Douglas L. Winston  
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Counsel for Plaintiff  
Kimberly Smith

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of April 2008 a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/s Douglas L. Winston  
Attorney for Plaintiff